IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2866 OF 2004

IN

FIRST APPEAL NO. 977 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders
	A.M. Kulkarni for the appellants. Mr. Zavier for the corporation.

CORAM: S.B. DESHMUKH, J.

October 3, 2006.

P.C. :

1. Heard the learned counsel for the parties.

2. Perused the order passed by this court on 6.9.2004 granting ad-interim relief in terms of prayer clause(b) and (c). I have also perused the order passed by this court on 6.9.2004

admitting the appeal.

3. Perused the judgment of the trial court. Ad-interim relief is granted by this court on September 6, 2004 and is in operation till today. Having heard the learned counsel for the parties, in my view First Appeal No. 977 of 2004 can be directed to be expeditiously disposed off. The applicant, can be directed to furnish requisite number of copies of paper-book. In the result Civil Application is allowed. Rule is made absolute in terms of prayer clause (b) and (c) with direction that the applicant shall furnish requisite number of copies of private paper-book consisting of pleadings of parties, notes of evidence and exhibited documents, if any within a period of 8 weeks from today.

4. In case of failure on the part of the applicant to furnish requisite number

of copies of private paper-book the Civil Application as well as First Appeal No. 977 of 2004 shall stand dismissed without reference to this court.

5. Hearing of First Appeal No. 977 of 2004 is expedited. List the appeal for final hearing, in the second week of January, 2007. Leave in favour of the parties to move this court, if the appeal is not listed for final hearing as directed above. Civil Application is disposed off in above terms.

6. Learned counsel Mr. Zavier for the Corporation, submits that in case of accidental fire the Corporation may not be held responsible since the change of user is without permission. Change of user, is the pivotal question in the First Appeal to be decided by this court at the time of final disposal of the appeal. However it is made clear that

the Corporation / respondent no.1 shall not be held responsible for such accidental fire and/or damage till the disposal of the appeal.

sd/-

(JUDGE)